

# Exhibit B

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4 X CORP.,

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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 Plaintiff,

10 v.

11 BRIGHT DATA LTD.,

Defendant.

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13 Case No. 23-cv-03698-WHA

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28 **PROTECTIVE ORDER**

1. **PURPOSES AND LIMITATIONS**

2. Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, trade secret, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. This Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. As set forth below, this Protective Order does not entitle the Parties to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

3. **DEFINITIONS**

4. 2.1 **Challenging Party**: A Party or Non-Party that challenges the designation of information or items under this Order.

5. 2.2 **“CONFIDENTIAL” Information or Items**: Information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), or the disclosure of which may cause competitive harm to a Party or Non-

1 Party.

2 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well  
3 as their support staff).

4 2.4 Designating Party: A Party or Non-Party that designates information or items that it  
5 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY  
6 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE”.

7 2.5 Disclosure or Discovery Material: All items or information, regardless of the medium  
8 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
9 transcripts, and tangible things), that are produced or generated in disclosures or responses to  
10 discovery in this matter.

11 2.6 Expert: A person with specialized knowledge or experience in a matter pertinent to  
12 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as  
13 a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s competitor,  
14 and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party’s  
15 competitor.

16 2.7 “HIGHLY CONFIDENTIAL” Information or Items: Extremely sensitive  
17 “Confidential Information or Items,” disclosure of which to another Party or Non-Party would create  
18 a substantial risk of serious harm that could not be avoided by less restrictive means.

19 2.8 “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items: Extremely  
20 sensitive “Confidential Information or Items” representing computer code and associated comments  
21 and revision histories, formulas, engineering specifications, or schematics that define or otherwise  
22 describe in detail the algorithms or structure of software or hardware designs, disclosure of which  
23 to another Party or Non-Party would create a substantial risk of serious harm that could not be  
24 avoided by less restrictive means.

25 2.9 House Counsel: Attorneys who are employees of a party to this action and have  
26 responsibility for overseeing this litigation. House Counsel does not include Outside Counsel of  
27 Record or any other outside counsel. The identity of House Counsel must be disclosed to the  
28 Producing Party prior to receiving Protected Materials.

1           2.10 Non-Party: Any natural person, partnership, corporation, association, or other legal  
2 entity not named as a Party to this action.

3           2.11 Outside Counsel: Attorneys who are not employees of a party to this action but are  
4 retained to represent or advise a party to this action and have appeared in this action on behalf of  
5 that party or are affiliated with a law firm which has appeared on behalf of that party.

6           2.12 Party: Any party to this action, including all of its officers, directors, employees,  
7 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

8           2.13 Producing Party: A Party or Non-Party that produces Disclosure or Discovery  
9 Material in this action.

10          2.14 Professional Vendors: Persons or entities that provide litigation support services  
11 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,  
12 storing, or retrieving data in any form or medium) and their employees and subcontractors.

13          2.15 Protected Material: Any Disclosure or Discovery Material that is designated as  
14 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL” or as “HIGHLY CONFIDENTIAL –  
15 SOURCE CODE.”

16          2.16 Receiving Party: A Party that receives Disclosure or Discovery Material from a  
17 Producing Party.

18          3. SCOPE

19          The protections conferred by this Stipulation and Order cover not only Protected or  
20 Discovery Materials (as defined above), but also (1) any information copied or extracted from  
21 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and  
22 (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal  
23 Protected Material. However, the protections conferred by this Stipulation and Order do not cover  
24 the following information: (a) any information that is in the public domain at the time of disclosure  
25 to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party  
26 as a result of publication not involving a violation of this Order, including becoming part of the  
27 public record through trial or otherwise; and (b) any information known to the Receiving Party prior  
28 to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained

1 the information lawfully and under no obligation of confidentiality to the Designating Party. Any  
2 use of Protected Material at trial shall be governed by a separate agreement or order.

3 4. **DURATION**

4 Even after final disposition of this litigation, the confidentiality obligations imposed by this  
5 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
6 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
7 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion  
8 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the  
9 time limits for filing any motions or applications for extension of time pursuant to applicable law.

10 5. **DESIGNATING PROTECTED MATERIAL**

11 5.1 **Exercise of Restraint and Care in Designating Material for Protection.** Each Party or  
12 Non-Party that designates information or items for protection under this Order must take care to  
13 limit any such designation to specific material that qualifies under the appropriate standards. To the  
14 extent it is practical to do so, the Designating Party must designate for protection only those parts  
15 of material, documents, items, or oral or written communications that qualify – so that other portions  
16 of the material, documents, items, or communications for which protection is not warranted are not  
17 swept unjustifiably within the ambit of this Order.

18 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown  
19 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily  
20 encumber or retard the case development process or to impose unnecessary expenses and burdens  
21 on other parties) expose the Designating Party to sanctions.

22 If it comes to a Designating Party's attention that information or items that it designated for  
23 protection do not qualify for protection at all or do not qualify for the level of protection initially  
24 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the  
25 mistaken designation.

26 5.2 **Manner and Timing of Designations.** Except as otherwise provided in this Order (see,  
27 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
28 Discovery

1 Material that qualifies for protection under this Order must be clearly so designated before the  
2 material is disclosed or produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic documents, but excluding  
5 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the  
6 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
7 SOURCE CODE” to each page that contains protected material. If only a portion or portions of the  
8 material on a page qualifies for protection, the Producing Party also must clearly identify the  
9 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for  
10 each portion, the level of protection being asserted.

11 A Party or Non-Party that makes original documents or materials available for inspection  
12 need not designate them for protection until after the inspecting Party has indicated which material  
13 it would like copied and produced. During the inspection and before the designation, all of the  
14 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL.” After the  
15 inspecting Party has identified the documents it wants copied and produced, the Producing Party  
16 must determine which documents, or portions thereof, qualify for protection under this Order. Then,  
17 before producing the specified documents, the Producing Party must affix the appropriate legend  
18 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
19 SOURCE CODE) to each page that contains Protected Material. If only a portion or portions of the  
20 material on a page qualifies for protection, the Producing Party also must clearly identify the  
21 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for  
22 each portion, the level of protection being asserted.

23 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
24 Designating Party identify on the record, before the close of the deposition, hearing, or other  
25 proceeding, all protected testimony and specify the level of protection being asserted. When it is  
26 impractical to identify separately each portion of testimony that is entitled to protection and it  
27 appears that substantial portions of the testimony may qualify for protection, the Designating Party  
28 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right

1 to have up to 21 days to identify the specific portions of the testimony as to which protection is  
2 sought and to specify the level of protection being asserted. Only those portions of the testimony  
3 that are appropriately designated for protection within the 21 days shall be covered by the provisions  
4 of this Stipulated Protective Order. Alternatively, a Designating Party may specify, at the deposition  
5 or up to 30 days afterwards if that period is properly invoked, that the entire transcript shall be  
6 treated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

7 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or  
8 other proceeding to include Protected Material so that the other parties can ensure that only  
9 authorized individuals who have signed the "Acknowledgment and Agreement to Be Bound"  
10 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition  
11 shall not in any way affect its designation as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

12 Transcripts containing Protected Material shall have an obvious legend on the title page that  
13 the transcript contains Protected Material, and the title page shall be followed by a list of all pages  
14 (including line numbers as appropriate) that have been designated as Protected Material and the  
15 level of protection being asserted by the Designating Party. The Designating Party shall inform the  
16 court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-  
17 day period for designation shall be treated during that period as if it had been designated "HIGHLY  
18 CONFIDENTIAL" in its entirety unless otherwise agreed. After the expiration of that period, the  
19 transcript shall be treated only as actually designated.

20 (c) for information produced in some form other than documentary and for any other tangible  
21 items, that the Producing Party affix in a prominent place on the exterior of the container or  
22 containers in which the information or item is stored the legend "CONFIDENTIAL" or "HIGHLY  
23 CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – SOURCE CODE." If only a portion or  
24 portions of the information or item warrant protection, the Producing Party, to the extent practicable,  
25 shall identify the protected portion(s) and specify the level of protection being asserted.

26 5.3 Inadvertent Failures to Designate. An inadvertent failure to designate qualified  
27 information or items does not, standing alone, waive the Designating Party's right to secure  
28 protection under this Order for such material. Upon correction of a designation, the Receiving Party

1 must make reasonable efforts to assure that the material is treated in accordance with the provisions  
2 of this Order.

3 **6. CHALLENGING FINAL CONFIDENTIALITY DESIGNATIONS**

4 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a designation of  
5 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality  
6 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
7 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to  
8 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
9 original designation is disclosed.

10 **6.2 Meet and Confer.** The Challenging Party shall initiate the dispute resolution process  
11 by providing written notice of each designation it is challenging and describing the basis for each  
12 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must  
13 recite that the challenge to confidentiality is being made in accordance with this specific paragraph  
14 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must  
15 begin the process by conferring directly (in voice to voice dialogue; other forms of communication  
16 by themselves are not sufficient) within 14 days of the date of service of notice. In conferring, the  
17 Challenging Party must explain the basis for its belief that the confidentiality designation was not  
18 proper and must give the Designating Party an opportunity to review the designated material, to  
19 reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the  
20 chosen designation. A Challenging Party may proceed to the next stage of the challenge process  
21 only if it has engaged in this meet and confer process first or establishes that the Designating Party  
22 is unwilling to participate in the meet and confer process in a timely manner.

23 **6.3 Judicial Intervention.** If the Parties cannot resolve a challenge without court  
24 intervention, either party may file and serve a motion under Civil Local Rule 7 (and in compliance  
25 with Civil Local Rule 79-5, if applicable) Each such motion must be accompanied by a competent  
26 declaration affirming that the movant has complied with the meet and confer requirements imposed  
27 in the preceding paragraph.

28 The burden of persuasion in any such challenge proceeding shall be on the Designating

1 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose  
2 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.  
3 All parties shall continue to afford the material in question the level of protection to which it is  
4 entitled under the Producing Party's designation until the court rules on a motion to maintain or alter  
5 the designation.

6 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
defending, or attempting to settle this litigation. Protected Material may be disclosed only to the  
categories of persons and under the conditions described in this Order. When the litigation has been  
terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL  
DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in  
a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered  
by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of  
said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for  
this litigation;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party  
(1) to whom disclosure is reasonably necessary for this litigation, and (2) who have signed the  
“Acknowledgment and Agreement to Be Bound” (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably  
necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be  
Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, mock jurors, and

1 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have  
2 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

3 (f) during their depositions, witnesses in the action to whom disclosure is reasonably  
4 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
5 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed  
6 deposition testimony or exhibits to depositions that reveal Protected Material must be separately  
7 bound by the court reporter and may not be disclosed to anyone except as permitted under this  
8 Stipulated Protective Order.

9 (g) the author or recipient of a document containing the information or a custodian, other  
10 person who otherwise possessed or knew the information, or person referenced by name in the  
11 document.

12 7.3 Disclosure of “HIGHLY CONFIDENTIAL” and “HIGHLY CONFIDENTIAL –  
13 SOURCE CODE” Information or Items. Unless otherwise ordered by the court or permitted in  
14 writing by the Designating Party, a Receiving Party may disclose any information or item designated  
15 “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

16 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of  
17 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for  
18 this litigation;

19 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this  
20 litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
21 and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

22 (c) the court and its personnel;

23 (d) court reporters and their staff, professional jury or trial consultants, and Professional  
24 Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the  
25 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

26 (e) during their depositions, witnesses in the action to whom disclosure is reasonably  
27 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
28 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material must be separately  
2 bound by the court reporter and may not be disclosed to anyone except as permitted under this  
3 Stipulated Protective Order.

4 (f) the author or recipient of a document containing the information or a custodian or other  
5 person who otherwise possessed or knew the information, or person referenced by name in the  
6 document.

7 7.4 Procedures Relating to Disclosure of "HIGHLY CONFIDENTIAL" Information to  
8 Experts.

9 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party,  
10 a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has  
11 been designated "HIGHLY CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – SOURCE  
12 CODE" first must make a written request to the Designating Party that (1) identifies the general  
13 categories of "HIGHLY CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – SOURCE CODE"  
14 information that the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the  
15 full name of the Expert and the city and state of his or her primary residence, (3) attaches a copy of  
16 the Expert's current resume, (4) identifies the Expert's current employer(s), (5) identifies each  
17 person or entity from whom the Expert has received compensation or funding for work in his or her  
18 areas of expertise or to whom the expert has provided professional services, including in connection  
19 with a litigation, at any time during the preceding five years,<sup>1</sup> and (6) identifies (by name and  
20 number of the case, filing date, and location of court) any litigation in connection with which the  
21 Expert has offered expert testimony, including through a declaration, report, or testimony at a  
22 deposition or trial, during the preceding five years.

23 (b) A Party that makes a request and provides the information specified in the preceding  
24 respective paragraphs may disclose the subject Protected Material to the identified Expert unless,  
25 within 14 days of delivering the request, the Party receives a written objection from the Designating

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26 <sup>1</sup> If the Expert believes any of this information is subject to a confidentiality obligation to a third-  
27 party, then the Expert should provide whatever information the Expert believes can be disclosed  
28 without violating any confidentiality agreements, and the Party seeking to disclose to the Expert  
shall be available to meet and confer with the Designating Party regarding any such engagement.

1 Party. Any such objection must set forth in detail the grounds on which it is based.

2 (c) A Party that receives a timely written objection must meet and confer with the  
3 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement  
4 within seven days of the written objection. If no agreement is reached, the Party seeking to make  
5 the disclosure to the Expert may file a motion as provided in Civil Local Rule 7 (and in compliance  
6 with Civil Local Rule 79-5, if applicable) seeking permission from the court to do so. Any such  
7 motion must describe the circumstances with specificity, set forth in detail the reasons why the  
8 disclosure to the Expert is reasonably necessary, assess the risk of harm that the disclosure would  
9 entail, and suggest any additional means that could be used to reduce that risk. In addition, any such  
10 motion must be accompanied by a competent declaration describing the parties' efforts to resolve  
11 the matter by agreement (i.e., the extent and the content of the meet and confer discussions) and  
12 setting forth the reasons advanced by the Designating Party for its refusal to approve the disclosure.

13 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden of  
14 proving that the risk of harm that the disclosure would entail (under the safeguards proposed)  
15 outweighs the Receiving Party's need to disclose the Protected Material to its Expert.

16 8. SOURCE CODE

17 (a) To the extent production of source code becomes necessary in this case, a Producing  
18 Party may designate source code as "HIGHLY CONFIDENTIAL - SOURCE CODE" if it  
19 comprises or includes confidential, proprietary or trade secret source code.

20 (b) Protected Material designated as "HIGHLY CONFIDENTIAL - SOURCE CODE"  
21 shall be subject to all of the protections afforded to "HIGHLY CONFIDENTIAL" information, and  
22 may be disclosed only to the individuals to whom "HIGHLY CONFIDENTIAL" information may  
23 be disclosed as set forth in Paragraphs 7.3 and 7.4.

24 (c) Any source code produced in discovery shall be made available for inspection, in a  
25 format allowing it to be reasonably reviewed and searched, during normal business hours or at other  
26 mutually agreeable times, at an office of the Producing Party's counsel or another mutually agreed  
27 upon location. The source code shall be made available for inspection on a secured computer in a  
28 secured room without Internet access or network access to other computers, and the Receiving Party

1 shall not copy, remove, or otherwise transfer any portion of the source code onto any recordable  
2 media or recordable device. The Producing Party may visually monitor the activities of the  
3 Receiving Party's representatives during any source code review, but only to ensure that there is no  
4 unauthorized recording, copying, or transmission of the source code. Each day that source code is  
5 viewed, all persons viewing source code shall sign a log that will include the names of all persons  
6 who enter the room to view the source code and the times when they enter and depart.

7 (d) The Receiving Party may request paper copies of limited portions of source code that  
8 are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other  
9 papers, or for deposition or trial, but shall not request paper copies for the purposes of reviewing the  
10 source code other than electronically as set forth in paragraph (c) in the first instance. The Producing  
11 Party shall provide all such source code in paper form including bates numbers and the label  
12 "HIGHLY CONFIDENTIAL - SOURCE CODE." The Producing Party may challenge the amount  
13 of source code requested in hard copy form pursuant to the dispute resolution procedure and  
14 timeframes set forth in Paragraph 6 whereby the Producing Party is the "Challenging Party" and the  
15 Receiving Party is the "Designating Party" for purposes of dispute resolution.

16 (e) The Receiving Party shall maintain a record of any individual who has inspected any  
17 portion of the source code in electronic or paper form. The Receiving Party shall maintain all paper  
18 copies of any printed portions of the source code in a secured, locked area. The Receiving Party  
19 shall not create any electronic or other images of the paper copies and shall not convert any of the  
20 information contained in the paper copies into any electronic format. The Receiving Party shall only  
21 make additional paper copies if such additional copies are (1) necessary to prepare court filings,  
22 pleadings, or other papers (including a testifying expert's expert report), (2) necessary for  
23 deposition, or (3) otherwise necessary for the preparation of its case. Any paper copies used during  
24 a deposition shall be retrieved by the Producing Party at the end of each day and must not be given  
25 to or left with a court reporter or any other unauthorized individual.

26 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
27 LITIGATION

28 If a Party is served with a subpoena or a court order issued in other litigation that compels

1 disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY  
2 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE” that Party must:

3 (a) promptly notify in writing the Designating Party. Such notification shall include a copy  
4 of the subpoena or court order;

5 (b) promptly notify in writing the party who caused the subpoena or order to issue in the  
6 other litigation that some or all of the material covered by the subpoena or order is subject to this  
7 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

8 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
9 Designating Party whose Protected Material may be affected.

10 If the Designating Party timely seeks a protective order, the Party served with the subpoena  
11 or court order shall not produce any information designated in this action as “CONFIDENTIAL” or  
12 “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a  
13 determination by the court from which the subpoena or order issued, unless the Party has obtained  
14 the Designating Party’s permission. The Designating Party shall bear the burden and expense of  
15 seeking protection in that court of its confidential material – and nothing in these provisions should  
16 be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful  
17 directive from another court.

18 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
19 LITIGATION

20 (a) The terms of this Order are applicable to information produced by a Non-Party in  
21 this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” or “HIGHLY  
22 CONFIDENTIAL – SOURCE CODE.” Such information produced by Non-Parties in connection  
23 with this litigation is protected by the remedies and relief provided by this Order. Nothing in these  
24 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

25 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-  
26 Party’s confidential information in its possession, and the Party is subject to an agreement with the  
27 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

28 1. promptly notify in writing the Requesting Party and the Non-Party that some

1 or all of the information requested is subject to a confidentiality agreement with a Non-Party;

2           2. promptly provide the Non-Party with a copy of the Stipulated Protective  
3 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of  
4 the information requested; and

5           3. make the information requested available for inspection by the Non-Party.

6           (c) If the Non-Party fails to object or seek a protective order from this court within 14  
7 days of receiving the notice and accompanying information, the Receiving Party may produce the  
8 Non-Party's confidential information responsive to the discovery request. If the Non-Party timely  
9 seeks a protective order, the Receiving Party shall not produce any information in its possession or  
10 control that is subject to the confidentiality agreement with the Non-Party before a determination  
11 by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense  
12 of seeking protection in this court of its Protected Material.

13           11. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

14           If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
15 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,  
16 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized  
17 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
18 inform the person or persons to whom unauthorized disclosures were made of all the terms of this  
19 Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to  
20 Be Bound" that is attached hereto as Exhibit A.

21           12. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
22 MATERIAL**

23           The inadvertent or unintentional disclosure by the Producing Party of information subject to  
24 a claim of privilege, including, but not limited to, the attorney-client privilege, or the work product  
25 doctrine, regardless of whether the information was so designated at the time of disclosure, shall not  
26 be deemed a waiver in whole or in part of the party's claim of privilege. As an example, but without  
27 limiting the foregoing, the disclosure of privileged information shall be deemed inadvertent if the  
28 disclosure was the result of the failure of search terms to capture such documents. In all cases,

1 information that contains privileged information or attorney-work product shall be immediately  
2 returned, sequestered, or destroyed if information appears on its face to have been inadvertently  
3 produced or if the Producing Party provides notice of the inadvertent production and the basis for  
4 the privilege claim within thirty (30) days of the Producing Party's discovery of the inadvertent  
5 production. The resolution of any dispute that may arise concerning whether a document is  
6 privileged or entitled to protection as trial-preparation material shall be governed by Rule  
7 26(b)(5)(B).

8 13. **MISCELLANEOUS**

9 14.1 **Right to Further Relief**. Nothing in this Order abridges the right of any person to seek  
10 its modification by the court in the future.

11 14.2 **Right to Assert Other Objections**. By stipulating to the entry of this Protective Order  
12 no Party waives any right it otherwise would have to object to disclosing or producing any  
13 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no  
14 Party waives any right to object on any ground to use in evidence of any of the material covered by  
15 this Protective Order.

16 14.3 **Filing Protected Material**. Without written permission from the Designating Party or  
17 a court order secured after appropriate notice to all interested persons, a Party may not file in the  
18 public record in this action any Protected Material. A Party that seeks to file under seal any Protected  
19 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal  
20 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant  
21 to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected  
22 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under  
23 the law. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local  
24 Rule 79-5 is denied by the court, then the Receiving Party may file the Protected Material in the  
25 public record pursuant to Civil Local Rule 79-5 unless otherwise instructed by the court.

26 14. **FINAL DISPOSITION**

27 Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
28 Receiving Party must return all Protected Material to the Producing Party or destroy such material.

1 As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations,  
2 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
3 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
4 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
5 by the 60-day deadline that affirms that the Receiving Party has not retained any copies, abstracts,  
6 compilations, summaries or any other format reproducing or capturing any of the Protected Material.  
7 Notwithstanding this provision, Counsel are entitled to retain archival copies of all pleadings,  
8 motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,  
9 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work  
10 product, even if such materials contain Protected Material. Any such archival copies that contain or  
11 constitute Protected Material remain subject to this Protective Order as set forth in Section 4  
12 (DURATION).

13 IT IS SO ORDERED.

14  
15 DATED: \_\_\_\_\_

16 WILLIAM ALSUP  
17 UNITED STATES DISTRICT JUDGE

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EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on \_\_\_\_\_ in the case of **X Corp. v. Bright Data, Ltd., No. C 23-03698-WHA (N.D. Cal.)**. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date:

City and State where sworn and signed:

Printed name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_  
[signature]